PUBLIC PROSECUTOR v. SIVAPARAGASAM

[A. Cr. J. (Hepworth J.) September 2, 1961]

[Penang — Criminal Appeal No. 20 of 1961]

Criminal Law and Procedure — Possession of weapon — Corrosive and Explosive Substances and Offensive Weapons Ordinance, 1958, ss.6 and 6A — Whether possession must be in any public place.

The respondent who had been charged under section 6A(1)(a) of the Corrosive and Explosive Substances and Offensive Weapons Ordinance, 1958 was acquitted on the ground that possession of the weapon had not been in a public place. On appeal by the Public Prosecutor,

Held: on a true interpretation of sections 6 and 6A of the Ordinance, the omission of the words "in any public road or place" in section 6A was intentional and that the legislature intended the offences set out in section 6A to be offences wherever committed.

CRIMINAL APPEAL.

Raja Mohd. Redzuan (Deputy Public Prosecutor) for the appellant.

Respondent in person.

Cur. Adv. Vult.

Hepworth J.: The respondent had been charged with carrying a knuckleduster contrary to the provisions of section 6A(1)(a) of the Corrosive and Explosive Substances and Offensive Weapons Ordinance, 1958. The learned Magistrate had acquitted and discharged the respondent at the close of the prosecution case on the ground that as the place in which he was found carrying the knuckleduster was not a public place no offence had been committed. From this order the Public Prosecutor appealed.

Under section 6 it is an offence (a) to carry, etc., (b) an offensive weapon, (c) in any public road or place, (d) otherwise than with lawful authority or for a lawful purpose. In section 6A it is an offence (a) to carry, etc., (b) a scheduled weapon, (c) otherwise than for a lawful purpose. No reference is made in section 6A to a public road or place.

An offensive weapon is defined in section 2 of the Ordinance as including any instrument which if used as a weapon of offence is likely to cause hurt. A scheduled weapon is defined in section 2 of the Ordinance as meaning any offensive weapon specified in the Second Schedule to the Ordinance. One of the weapons specified in the Second Schedule is a knuckleduster. It cannot be argued that a knuckleduster is anything other than an instrument which if used as a weapon of offence is likely to cause hurt. Similarly all the other weapons specified in the Second Schedule are clearly instruments which if used as weapons of offence are likely to cause hurt. In other words all the instruments specified in the Second Schedule come within the definition of an "offensive weapon" and indeed are referred to as offensive weapons in section 6A. It follows that if the offences set out in paragraph (a) of sub-section (1) of section 6A of the Ordinance are only offences if committed in any public road or place that part of the section would be redundant because such offences would be covered by section 6.

For these reasons I think it is quite clear that the omission of the words "in any public road or place" in section 6A is intentional and that the legislature intended the offences set out in section 6A to be offences wherever committed and those set out in section 6 only to be offences if committed in a public road or place.

I accordingly allowed the appeal, set aside the order of acquittal and discharge, and ordered the case to be remitted to the Magistrate for him to call upon the respondent for his defence.

Appeal allowed.

BACHAN SINGH v. KULASINGAM

[D. C. A. (Ambrose J.) September 23, 1961]

[Singapore — District Court Appeal No. 15 of 1961]

Money and moneylending — Keeping of proper accounts — Moneylenders Ordinance (Cap. 193), s.7(1) — Moneylenders Ordinance, 1959, s.19 — Applicability to ex-moneylender — Whether District Judge had power to dismiss appellant's claim.

The appellant, an ex-moneylender, brought an action to recover $605.82 on a promissory note made to the respondent on February 2, 1958 when the appellant was still a moneylender within the provisions of the old Moneylenders Ordinance (Cap. 193). In the Court below the learned District Judge, finding that the accounts of the loan were not in order, (as required by section 7(1) of the old Ordinance) dismissed the appellant's case. On appeal,

Held: the learned District Judge had no power to dismiss the appellant's claim because on November 8, 1959, the date on which the District Judge made his order, the appellant was neither subject to the provisions of section 7 of the old Ordinance (as it had been repealed on September 11, 1959) nor section 19 of the new Ordinance (because the appellant was not a "moneylender" under the new Ordinance).

DISTRICT COURT APPEAL.

R. Murugason for the appellant.

Respondent absent.

Ambrose J.: This was an appeal by the plaintiff in the action against a decision of the District Court. The action was brought to recover the sum of $605.82 alleged to be due upon a promissory note dated the 21st February, 1958. It was not disputed that at the time of making the loan the plaintiff was a moneylender within the meaning of the term as defined in the old Moneylenders Ordinance (Cap. 193 of the 1955 edition of the Laws of the Colony of Singapore). The learned District Judge found that the account of the loan which the plaintiff was required to keep under section 7(1) of the old Moneylenders Ordinance was not in order. For that reason he dismissed the plaintiff's claim.

The District Judge made three criticisms as regards the account in question. The first was that in entering the payment of a sum of $120 made by the defendant on the 2nd March, 1959,